

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

MICHAEL CASACCIA,

Plaintiff,

-against-

CITY OF ROCHESTER, et al.,

Defendants.

**MEMORANDUM OF LAW IN
OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS THE
AMENDED COMPLAINT FILED
AT DOCKET 29**

**INDEX NO.: 17-cv-6323
(MAT)(JFW)**

Plaintiff Michael Casaccia ("Plaintiff" or "Mr. Casaccia") respectfully submits this Memorandum of Law in opposition to the City defendants' motion to dismiss (Dkt. 30) the Amended Complaint filed at docket no. 29.

Plaintiff respectfully submits that the City defendants' motion is moot, as Plaintiff has moved to amend the complaint at docket no. 32. The proposed amended complaint is filed at docket 32-4.

Plaintiff intended to file the motion filed at docket 32 as a "cross motion," which is how it was denominated in the Notice of Motion, Declarations and Memorandum of Law, but it was mistakenly filed simply as a "motion." Thus, all of Plaintiff's arguments in opposition to the City defendants' motion and in support of his motion to Amend are contained in the Memorandum filed at docket no. 32-3.

Lastly, Plaintiff respectfully requests that the Court treat his motion filed at docket 32 as a "cross motion." It was his intent in filing that motion to both oppose the City's motion at docket 30, and cross move to strike the City's purported answer,

filed at docket 28, to amend the complaint, to sanction the City for their refusal to serve Rule 26(a) mandatory disclosures, to modify the scheduling order, for fees incurred in being forced to make the motion, and for other and further relief as the Court deems just and proper.

Dated: New York, New York
April 30, 2019

Respectfully Submitted,
ROTH & ROTH LLP
By: ~s/~
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To: All parties (via ECF)